

REMARKS

Applicants have carefully reviewed and considered the Office Action mailed on July 9, 2008, and the references cited therewith.

Claims 1 and 28 are amended, claims 24, 27, and 31-33 are canceled, and new claims 34-37 are added; as a result, claims 1, 28, and 34-37 are now pending in this application. Claims 1 and 28 are amended to remove the claim amendments which were submitted in response to the previous Office Action. Claim 1 is further amended to incorporate the subject matter of claims 24 and 27. Claim 28 is amended to incorporate the subject matter of claim 31-33. Claims 1 and 28 recite that the emanator material is “positioned a predetermined distance below the housing such that the emanator material is physically separated from the housing.” Support for this amendment is found on page 19 of the specification describing Fig. 14. New claims 34 and 35 recite that the means for controllably releasing the volatile substance from the housing and onto the emanator material comprises a gas generating cell. Support for these claims may be found on page 19 of the specification describing Fig. 14. In the elected embodiment of Fig. 14 as recited in claims 34 and 35, the emanator material is positioned a predetermined distance below the housing such that it is physically separated from the housing, but still part of the overall fluid delivery system. “In such an embodiment, the volatile fluid drips onto the emanator … with the aid of a gas generating cell.” The gas generating cell is not shown in Fig. 14 because it is adequately disclosed in relation to Fig. 13 and the relevant disclosure from Fig. 13 is incorporated into the disclosure of Fig. 14. The key difference between the embodiment of Fig. 14 from the embodiment of Fig. 13 is that the emanator material is physically separated from the housing. Applicants submit that the gas generating cell is expressly within the scope of the elected embodiment represented by Fig. 14. New claims 36 and 37 recite that the emanator is a non-porous plate. Support for these claims may be found on page 19 of the specification describing Fig. 14.

Drawings

In view of the foregoing claim amendments, Applicants submit that the Examiner’s objection to the drawings is now moot and request withdrawal of the objection.

Claim Rejections – 35 USC § 112

In view of the foregoing claim amendments, Applicants submit that the Examiner's claim rejections under Section 112, first paragraph, are now moot and request withdrawal of the rejections.

Claim Rejections – 35 USC §103

Claims 1, 24, 28, 31, 33 were rejected under 35 USC § 103(a) as being unpatentable over Ohayon (U.S. 5,810,253) in view of Muramoto et al. (U.S. 4,477,414). The subject matter of claims 27 and 32 has been incorporated into claims 1 and 28, respectively. As claims 27 and 32 were not rejected herein, then Applicants respectfully request withdrawal of the rejection of claims 1, 24, 28, 31, 33.

Claims 27 and 32 were rejected under 35 USC § 103(a) as being unpatentable over Ohayon in view of Muramoto et al. and further in view of DeLuca (U.S. 4,294,778). The Office Action on page 6 argues that it would have been obvious to provide the fan of DeLuca to the device of Ohayon in view of Muramoto to enhance evaporation. Merely because a fan is used to evaporate volatile fluid in the device of DeLuca does not mean it would have been obvious to use a fan in an entirely different device and configuration, such as that disclosed in Ohayon and Muramoto or the presently claimed device.

In DeLuca, a fan is used to force air across a reservoir of material to evaporate and entrain the material. The DeLuca device operates differently from the disclosed and claimed invention. More specifically, DeLuca does not utilize any of the claim elements recited in claims 1 or 28. For the purpose of simplifying the discussion and argument, DeLuca does not disclose a heated emanator material. It may be obvious to use a fan to help evaporate material from a reservoir, but it would not be obvious to use a fan in a device that already has a heated emanator.

Applicants explain in the specification, page 19, that a fan can be utilized as a means for enhancing the emanation of the fluid whereas the heating element enhances the volatilization of the fluid. Emanation of fluid is distinctly different than volatilization of fluid. Contrary to the Examiner's belief, the fan is not used by Applicants to evaporate (or volatilize) the fluid. Applicants are not aware of prior art that discloses the use of a fan in combination with a heated emanator. In the absence of any teaching or suggestion to use a fan with a heated emanator,

Applicants respectfully submit that it would not have been obvious to persons having ordinary skill in the art.

The claimed combination provides distinct advantages that are not suggested in the prior art, including, but not limited to, improved control over evaporation rate and dispersion of the volatile substance, the ability to use less volatile substances or more concentrated volatile substances because of the combination of improved volatilization AND emanation, all of which result in a more cost effective device.

In view of the foregoing, Applicants respectfully submit that the invention recited in claims 1 and 28 would not have been obvious from the teachings of Ohayon in view of Muramoto et al. and further in view of DeLuca. Withdrawal of the rejection is respectfully requested.

New Claims 34-37

New claims 34-35 recite that the means for controllably releasing the volatile substance from the housing and onto the emanator material comprises a gas generating cell. This feature is not disclosed or suggested by any of the cited patents to Ohayon, Muramoto et al., or DeLuca. Applicants respectfully submit that the gas generating cell, such as a chemical or electrochemical gas generating cell, provides improved delivery of the volatile fluid to the emanator pad. This is yet another feature that provides improved control, efficiency, and effectiveness of the device for releasing a volatile substance as claimed. Accordingly, Applicants respectfully request allowance of claims 34 and 35.

New claims 36-37 recite that the emanator is a non-porous plate. This feature is not disclosed or suggested by any of the cited patents to Ohayon, Muramoto et al., or DeLuca. Ohayon disclose an absorbant matrix material such as cotton or cardboard (column 9, line 3) which is clearly porous. Muramoto et al. disclose an absorbent impregnation member (16) which is clearly porous. DeLuca does not disclose any emanator material. Accordingly, Applicants respectfully request allowance of claims 36 and 37.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (801-978-2186) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3586

Respectfully submitted,

ASHOK V. JOSHI ET AL.

By their Representatives,

Date 10/9/2008

By 
David B. Fonda
Reg. No. 39,672